

**REMARKS**

In this amendment, claims 21-24 are added and claims 1-4, 14, 16 and 18-20 are canceled. Accordingly, claims 5-13, 15, 17 and 21-24 are pending.

On August 23, 2007, an interview was conducted in connection with this application. Present at the interview were Examiner Nguyen, Ross Johnson (one of the inventors) and the undersigned. During the interview, Mr. Johnson demonstrated the operation of the tourniquet that is the subject of this application (the SOF tourniquet) and he demonstrated the operation of the tourniquet that is the subject of McMillan, U.S. Patent No. 6,899,720 (hereinafter McMillan). Specifically, Mr. Johnson demonstrated that the strap 12 of the McMillan tourniquet causes undesirable pinching of the skin when tightened and does not effectively stop blood flow due to the absence of a rigid base in the McMillan structure. Mr. Johnson further demonstrated the relative difficulty of one-handed application of the McMillan tourniquet in comparison with the SOF tourniquet.

In addition during the interview the §102 and § 103 rejections of claim 5 over McMillan were discussed. The undersigned argued that McMillan fails to teach or disclose a tourniquet having a substantially rigid base and, as such, claim 5 is not anticipated or rendered obvious by McMillan. Examiner Nguyen stated that if claim 5 were amended to include additional structure, then claim 5 would be patentably distinct from McMillan. Claim 5 is herein amended to further define the base and the

relationship between the base and the strap. Accordingly, it is submitted that claim 5 is properly allowable.

Turning to the Office Action, claims 5-8 and 14-17 were rejected under 35 U.S.C. §102(e) as anticipated by McMillan. This rejection is respectfully traversed.

It is well established that a reference must disclose, within its four corners, each and every limitation of a claim in order for the reference to support an anticipation rejection. Here, McMillan fails to disclose several limitations of claim 5. For example, McMillan does not disclose a substantially rigid base as recited in claim 5. McMillan disclosed a tourniquet 10 having a tightening rod 20, a strap 12 passing through tightening rod 20. McMillan maintains tightening rod 20 in place with loop-pocket assemblies 24, 28 illustrated in Figs 4A-4D. Loop-pocket assemblies 24, 28 include looped portion 42 and pocket portions 45 and 46.

The Office Action identifies looped portion 42 of McMillan as a base. Applicant submits that looped portion 42 is not a base. The term "base" as used in the claims refers to "*a supporting part or layer; a foundation*".<sup>1</sup> An example of a base as understood by persons of ordinary skill in the tourniquet art is shown in U.S. Patent Application Publication No. 2005/0273134, element 62. Loop member 42 is not a supporting part, a layer or a foundation. Loop member 42 is used to secure tightening rod 20 in place. See McMillan, column 5, lines 17-32.

---

<sup>1</sup> The American Heritage Dictionary of The English Language, 3<sup>rd</sup> Edition page 153, definition 2.a.

Moreover, loop portion 42 is not positioned relative to tightening rod 20 to reduce binding of loop portion 42 as tightening rod 20 is twisted. In fact, as demonstrated during the interview, the McMillan tourniquet undergoes significant binding and twisting during deployment.

For at least the foregoing reasons, it is submitted that claim 5 is not anticipated by McMillan and that claim 5 is properly allowable. Dependent claims 5-8 and 15 and 17 are likewise submitted to be properly allowable.

Claims 9-13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McMillan. This rejection is respectfully traversed.

The Office Action erred in determining the scope and content of the prior art. As discussed above, McMillan does not teach that use of a base at all in his tourniquet. Contrary to the assertion in the Office Action, element 42 is a loop, not a base. Furthermore, loop 42 is not substantially rigid.

There is no reason that a person of skill in the art would have modified McMillan to meet the limitations of claim 9. McMillan teaches a tourniquet that operates without a base. Common sense would dictate that there is no reason to modify a workable structure by adding an apparently superfluous element (the base) to the McMillan structure. To find otherwise is to engage in classic impermissible hindsight reconstruction. It is the present inventors that discovered the benefits of a tourniquet design including a layered, substantially rigid base as recited in claim 9.

Even if loop 42 were considered to be a base, McMillan still would not meet the limitations of claim 9. Claim 9 requires that the base be comprise a layered composite structure. The purpose of this construction is to increase rigidity of the base. See paragraph [0017] of the present application. Nothing in McMillan teaches that loop 42 is a rigid, layered structure. In fact, loop 42 is constructed from a section of webbing. See McMillan, column 4, lines 51-55. There is no plausible reason why a person of skill in the art would have modified loop 42 to be a rigid, layered structure. The purpose of loop 42 is to hold tightening rod 20 in position after it is used to tighten strap 12. Col 5, lines 17-19. Making loop 42 substantially rigid does not assist in any way in the device performing its function. In fact, it would likely make it more difficult for the user to insert tightening rod 20 into loop 42 as loop 42 would not give and the user would need to be especially precise in aligning the tightening rod 20 with loop 42.

In addition, because loop 42 is free to slide along strap 12, if it were substantially rigid it may actually impede the user as the user is deploying the tourniquet by, for example, urging against the skin and creating painful abrasions.

In view of the foregoing, it is readily apparent that subject matter of claim 9 is not obvious in view of McMillan. Accordingly, claim 9 is properly allowable. Dependent claims 10-13 are likewise properly allowable.

Claims 21-24 are added to more completely define the invention. Claim 21 is directed to a tourniquet including a buckle that is connected to the base. The buckle includes a screw that assists in securing the strap to the base. McMillan does not teach

or disclose a tourniquet including a buckle as recited in claim 21. Accordingly, claim 21 is properly allowable.

Claim 22 is directed to a tourniquet article including an elongated handle and a substantially rigid base underlying the elongated handle. McMillan fails to teach or disclose a tourniquet with a base underlying and elongated handle as recited in claim 22. Accordingly, claim 22 is properly allowable.

Claim 23 is directed to a tourniquet article including a structural member attached to a base. The strap of the tourniquet is disposed between the structural member and the base. Claim 24 defines the structural member as a cap. McMillan fails to teach or disclose a tourniquet article having a structural member attached to the base where the strap is disposed between the structural member and the base as defined in claims 23 and 24. Accordingly, claims 23 and 24 are properly allowable.

In view of the foregoing amendments and remarks, it is asserted that the

Atty. Docket No. 610.0002  
Amdt. Dated September 19, 2007  
Appl. No. 10/830,144  
Reply to Office Action dated April 17, 2007

**PATENT**

application is in condition for allowance. Reconsideration of the rejection and a favorable action on the merits are respectfully requested.

Respectfully submitted,  
CAHN & SAMUELS, L.L.P.

By:     /Frederick Samuels/      
Frederick N. Samuels, Reg. No. 34,715  
2000 P St., NW, Ste. 200  
Washington, D.C. 20036  
Telephone: (202) 331-8777  
Fax: (202) 331-3838

September 19, 2007